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WORLD CONFERENCE AGAINST RACISM,
RACIAL DISCRIMINATION, XENOPHOBIA
AND RELATED INTOLERANCE

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REPORTS, STUDIES AND OTHER DOCUMENTATION FOR THE PREPARATORY COMMITTEE AND THE WORLD CONFERENCE

Progress achieved in the fight against racism and reappraising obstacles to further progress

Report of the High Commissioner on the questionnaire circulated pursuant to paragraph 49 (a) and (b) of the Commission on Human Rights resolution 1999/78

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CONTENTS

		Paragraphs	Page
Introduction		1 - 3	4
I.	ANALYSIS OF THE QUESTIONNAIRE RESPONSES	4 - 166	4
A.	Progress achieved in the fight against racism	4 - 37	4
B.	Government evaluation of the effectiveness of their policies and practices	38 - 47	9
C.	Ways and means to ensure effective implementation	48 - 83	10
D.	The Committee on the Elimination of Racial Discrimination (CERD)	84 - 94	15
E.	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families	95 - 96	17
F.	Immigration policies	97 - 102	17
G.	Steps taken to address contemporary forms of racism	103 - 109	18
H.	Measures to guarantee the rights of indigenous populations	110 - 119	19
I.	Increasing the level of awareness about racism	120 - 128	21
J.	Increasing the effectiveness of United Nations activities and mechanisms	129 - 140	22
K.	The factors that lead to racism, racial discrimination, xenophobia and related intolerance	141 - 146	24
L.	Furthering action-oriented measures at the national, regional and international levels	147 - 162	24

CONTENTS (continued)

		Paragraphs	Page
M.	National institutions	163 - 166	26
II.	CONCLUSIONS	167 - 180	27

Annexes

I.	Questionnaire circulated by the High Commissioner pursuant to paragraph 49 (a) of Commission on Human Right resolution 1999/78	30
II.	List of respondents to the questionnaire	33

Introduction

1. The Commission on Human Rights in paragraph 49 (a) of its resolution 1999/78 requested the High Commissioner for Human Rights to prepare, immediately following the fifty-fifth session of the Commission, the questionnaires referred to in the report of the Working Group with a view, on the one hand, to reviewing progress made in the fight against racism, racial discrimination, xenophobia and related intolerance, particularly since the adoption of the Universal Declaration of Human Rights, and, on the other, to reappraise the obstacles to further progress in the field and ways to overcome them, and to send them as soon as possible to States, specialized agencies, international governmental and non-governmental organizations and national institutions. The High Commissioner was also asked, in paragraph 49 (b), to review and analyse the replies and submit a report to the first session of the Preparatory Committee six weeks before the beginning of its work.

2. Pursuant to this resolution, the Office of the High Commissioner for Human Rights (OHCHR) circulated a note verbale dated 22 June 1999 to States, specialized agencies, international governmental organizations and non-governmental organizations (NGOs), and national institutions requesting answers to the accompanying 15 questions. The questionnaire is contained in annex I to the present report. As at the writing of this report, the Office has received 47 responses to the questionnaire.[1] A list of the respondents is provided in annex II.

3. The questionnaire responses have been used to prepare the present report. The full texts of the responses are available for reference at the Office of the High Commissioner for Human Rights in Geneva.

I. ANALYSIS OF THE QUESTIONNAIRE RESPONSES

A. Progress achieved in the fight against racism

4. During the last 50 years since the adoption of the Universal Declaration of Human Rights, the international community has made some important advances in the fight against racism, racial discrimination, xenophobia and related intolerance. Recent decades have witnessed the end of apartheid in South Africa and its adoption of a new multiracial Constitution. In many South American countries, racial discrimination has been and continues to be combated through the abolishment of discriminatory laws. In several countries, there has been an increased recognition of indigenous peoples and their rights, particularly through constitutional and legislative changes.

5. As evidenced by the questionnaire responses, there is a general trend, at least at the declaratory level, towards respect for and promotion of tolerance and the human rights and fundamental freedoms of all human beings, without distinction as to race, colour, ethnicity or national origin.

6. An analysis of the responses can be summarized by the following indicators of progress in the fight against racism, racial discrimination, xenophobia and related intolerance: constitutional guarantees and fundamental rights and freedoms, legislation, government policies and programmes, racial and ethnic representation.

1. Constitutional guarantees and fundamental rights and freedoms

7. A very welcome trend over the past half-century has been the enactment of new constitutional guarantees of human rights in many States, and particularly in newly-independent countries. Some of these constitutions for the first time recognized either the rights of all persons and/or of certain racial or ethnic or religious groups, of indigenous peoples, and of women. Some constitutions have recognized the racial, ethnic or cultural plurality of the nation as well (Mexico, Poland). Countries such as Canada and Lithuania enacted charters which enshrine human rights and fundamental freedoms. These charters of rights and freedoms prohibit discrimination based on inter alia, race, national or ethnic origin, colour, religion, sex, age, or mental or physical disability. In Canada, all legislation, policies and programmes are subject to the Charter. It is significant that countries have recognized these rights, values and prohibitions on discrimination in the highest law of the land.

8. The 1990s witnessed newly-independent States, such as the Slovak Republic, Belarus, Latvia, Croatia, Lithuania, enacting new constitutions which reflect the protection of human rights and acceding to international human rights instruments.

9. Further, countries such as New Zealand and Canada have also enacted bills of rights in the 50 years since the adoption of the Universal Declaration of Human Rights.

2. Legislation

10. Almost every country that replied has enacted legislation as an integral and fundamental part of combating racism, racial discrimination, xenophobia and related intolerance. Many of these laws prohibit discrimination on the grounds of race, ethnicity, colour or national origin, and also make it a crime to incite hatred or violence against persons or groups on these grounds. Further, many Governments have criminalized racially-motivated crimes, often with harsh sanctions.

11. The responses indicate that countries have enacted sector-specific legislation prohibiting to a greater or lesser extent racial and ethnic discrimination. Examples include discrimination in labour or employment (Act No. 459 on the Prohibition of Differential Treatment on the Labour Market, Denmark), in participation in the political process (The Voting Rights Act, United States) and in employment (Employment Equity Act, Canada).

12. Some countries have focused their legislation to address the needs and concerns of certain vulnerable groups such as indigenous peoples, the Roma and racial or ethnic minority women, who often constitute a "doubly disadvantaged" group. The Government of Iraq stated that it had instituted a series of legislative and constitutional measures to combat racism, particularly through the "constitutional recognition of the legitimate ethnic rights of Kurds and other minorities within the framework of the territorial integrity and national unity of Iraq".

3. Government policies and programmes

13. Often, constitutional guarantees and legislation are only two elements of a Government's measures against racism, racial discrimination, xenophobia and related intolerance. According to many respondents, government policies and programmes are an integral part of their efforts to combat racism.

14. Countries like Guatemala recognize the multi-ethnic and multicultural nature of the society and this recognition has been incorporated in new and existing legislation. For example, the National Civil Police Act (Decree) states that "the processes of recruiting, selecting, training and deploying staff should include consideration of the multi-ethnic and multicultural nature of Guatemala".

15. A few countries have a comprehensive government strategy concerning the issues of racism, racial discrimination, xenophobia and related intolerance. Canada has an official national policy of multiculturalism which recognizes the diversity of Canadians. As stated in Canada's response, the policy has economic, social, cultural and political dimensions and it informs extensive government programming at the federal, provincial and territorial levels.

16. Cuba reported that it has developed programmes to promote the equality of all of its citizens through the redistribution of wealth, the creation of jobs, the provision of universal education and access to basic social services. It also stated that progress had been achieved through programmes that were especially designed to integrate into society historically disadvantaged sectors and to develop their skills, and through the promotion of blacks and mixed-race persons to management positions.

17. The establishment of a key human rights focal point in the country, whether it was an individual or a national institution was another government initiative reported by some Governments. For example, in Poland there is the Commission for National and Ethnic Minorities and in the Russian Federation the Ministry of Nationalities and Federal Relations. In certain countries, there are both a key individual and a national institution: in the Slovak Republic the Deputy Prime Minister for Human Rights, Minorities and Regional Development and the Council of Government of the Slovak Republic on National Minorities.

18. Many countries have either an office of the Ombudsperson, human rights commission or board of equality of some sort, although they are vested with different powers and mandated with varying responsibilities.

4. Racial and ethnic representation

19. Some Governments reported that they have made some progress in the representation of racial and ethnic minorities in key government and political positions. In 1999 an Arab member of the Knesset was appointed for the first time in Israel's history to the position of Deputy Foreign Minister, and the Slovak Republic has created the position of Deputy Prime Minister for Human Rights, Minorities and Regional Development, who acts as the coordinator for national

minority issues. Many Governments are working to ensure that their national public service reflects the varied racial and ethnic composition of the country (Canada, Denmark, and the United Kingdom).

5. The issue of progress

20. In its response, the Government of Canada stated that a country's progress in the fight against intolerance must be measured by both government action and by the inherent values of its citizens.

21. The Ombudsman's Office of Costa Rica reported that although there had been no violent outbreaks of xenophobia or displays of racial hatred, there was little tolerance for immigrants or for sectors of the population whose members had traditionally been victims of discrimination. The Office continued that it was possibly in that area, which was essentially a matter of "cultural education", that Costa Rica had made the least progress.

22. Some of the reports and answers received about the progress made in the fight against racism, racial discrimination, xenophobia and related intolerance indicated that, in certain countries, progress was neither an issue nor a consideration, owing to the fact that the Government believed that there were no domestic problems in that area, or there was a low incidence of the phenomena. Various reasons were given.

23. The Government of Iceland stated that it was unable to comment on the issue of progress because no serious concerns or conflicts in that regard had arisen, therefore it had not been required to take direct measures. Similarly, the Government of Lebanon replied that racism, racial discrimination and xenophobia were not really issues in that country since persons of all races and all countries of the world were residing there and "no offences ha[d] been committed against them because of their race or origin".

24. The Government of the United Arab Emirates stated that daily conduct and social relations were based on the Islamic religion. As it is committed to the principles and precepts of the religion, it had eliminated all types and forms of racial discrimination as a general rule, notwithstanding any obstacles or problems that may arise from time to time. Therefore, it was not possible to speak of progress made in the field since the prohibition of all forms of discrimination was an "absolute and comprehensive" requirement, the partial or incomplete fulfilment of which was unacceptable.

25. A non-governmental organization with offices in Ghana and Poland reported that although racism and racial discrimination were uncommon in these countries, religious intolerance did exist there.

26. The progress of nations in the fight against racism was evident in greater detail and with greater specificity in responses to certain questions of the questionnaire considered throughout the present report.

6. Obstacles to further progress

27. The questionnaire inquired what the respondents considered to be obstacles to further progress in their country in the fight against racism, racial discrimination, xenophobia and related intolerance.

28. Some Governments repoorted that there were no serious obstacles to further progress in the field under consideration in their countries. Nevertheless, the questionnaire responses did reveal some obstacles to further progress in the field of racism, racial discrimination, xenophobia and related intolerance.

29. The issue of progress in the fight against racism has a component linked to the economic well-being of the people of a country. The Government of the United States indicated that, despite its enactment and enforcement of legislation, race-based disparities in the indicia of economic well-being persist, and that African-Americans, American Indians, Asian Americans, Pacific Islanders and Hispanics had higher rates of poverty than white Americans in the United States.

30. The Government of the Russian Federation replied that obstacles to progress were due to the gaps in or the "defective nature of the [domestic] statutory framework", difficulties in the application of existing legislation and the extreme politicization of ethnic problems.

31. The Government of Cuba cited a lack of political will on the part of many Governments to promote action and eliminate racism, as evidenced by discriminatory immigration policies in many countries, legalization of racist political parties and organizations in many countries, the spread of racist propaganda, including through modern technology like the Internet, and low financial contributions from developed countries to combat racism, inter alia to the Trust Fund for the Third United Nations Decade to Combat Racism and Racial Discrimination.

32. The concentration of wealth in developed countries and in certain social classes, and the legacy of colonialism and neo-colonialism which caused unequal development were noted as the main obstacles in the fight against racism by some non-governmental organizations and Governments.

33. The Government of Cuba also noted the persistence of minimal levels of racial prejudice in some aspects of interpersonal relationships, due to historically based stereotypes, but the number of racially mixed families had increased as a result of education.

7. Overcoming the obstacles to racism, racial discrimination, xenophobia and related intolerance

34. The Government of Chile pointed out that to overcome an obstacle, it was necessary to tackle it at its source. Given that racism and racial discrimination were a consequence of an intolerance of diversity acquired from an exclusive culture, that culture must be reversed. This could be achieved through the design of school curricula that proposed that children and adolescents be educated in the principles of tolerance and respect for differences, and the enactment of legislation to protect the rights of victims of acts of discrimination.

35. The Government of Cuba suggested a "new economic order": a reorientation of current national and international economic relations to allow for the redistribution of wealth between countries. It also suggested that 2005 be set as the target date for achieving the universal ratification of the International Convention on the Elimination of All Forms of Racial Discrimination and that States withdraw immediately their reservations to article 4.

36. A non-governmental organization with offices in several southern African countries stated that laws had abolished racial discrimination; however, the obstacle to further progress was public attitudes. That obstacle could be overcome by increased interaction and education.

37. The Government of the Russian Federation pointed to the need to safeguard individual, collective and media rights and freedoms concerning violations of rights, as well as the need for increased enforcement of the law.

B. Government evaluation of the effectiveness of their policies and practices

38. In the preceding paragraphs, the progress reported by countries in combating racism, racial discrimination, xenophobia and related intolerance, obstacles to the fight against them, and measures to overcome the obstacles have been outlined. The responses tend to suggest that the very existence of the progress indicators is in effect progress in the fight against racism. However, how do Governments evaluate the effectiveness of their policies and practices in the fight against racism, racial discrimination, xenophobia and related intolerance?

39. A small number of governments evaluated effectiveness, and few benchmarks or measures for evaluating the effectiveness of these policies and practices existed.

40. The Government of Chile stated that the effectiveness of policies and measures adopted was a relative consideration. Progress had been made with respect to including specific objectives relating to racial discrimination in Chilean policies and programmes. However, it was stated that, it cannot be ascertained if this new approach will succeed in bringing about real and significant changes in future generations.

41. The Government of Lebanon considered that the best and most successful way to ensure more effective implementation of the standards and instruments used to combat racism and racial discrimination was strict enforcement of the law.

42. A few Governments stated that they utilized reviews of their periodic reports by the Committee on the Elimination of Racial Discrimination as an evaluative measure of the effectiveness of their policies and practices.

43. The Government of New Zealand indicated that its Human Rights Act required the Ministry of Justice to report to Parliament every six months on progress across government in remedying significant inconsistencies between existing legislation and the Human Rights Act.

44. The Government of Portugal reported that its national institution, the Commission for Equality and against Racial Discrimination, was required to regularly evaluate the domestic situation with regard to racism and racial discrimination.

45. In Canada, the federal Government and various provincial governments, departments and bodies undertook surveys and there was a task force on the participation of visible minorities in the federal public service.

46. Similarly, in the United States several federal, national and state entities compiled data, such as the number of civil rights violations, and conducted studies in the areas of education, employment, health and housing, income and law enforcement. The Government reported that it determined whether its policies and practices in the field were achieving progress by monitoring the key indicia of social and economic well-being.

47. The Government of the United Kingdom reported that over the past five years it had provided extensive funding to local authorities and community groups to undertake projects aimed at combating racism, and that each of those projects had an in-built evaluation element. It had also conducted a domestic survey to assess the level of racist attitudes within the country and it was using the results to set targets for recruitment and retention in the public service and career progression targets for ethnic minority staff in the Home Office and the police, fire, prison and probation services.

C. Ways and means to ensure effective implementation

1. Measures to prevent incitement to racial hatred

48. Almost all of the government respondents reported that incitement to racial hatred was an offence under domestic criminal law (Austria, Belarus, Canada, Chile, Croatia, Cuba, Israel, Lithuania, New Zealand, Russian Federation, Poland, Spain, United Arab Emirates). Several Governments have enacted legislation which provides that where a criminal act is committed with a racist motive or intent, this constitutes an aggravating circumstance and can lead to harsher penalties (Austria, Canada, Croatia, Denmark, Israel, Spain, United States).

49. The Constitution of the Russian Federation contains a provision which prohibits propaganda or agitation that incites social, racial, ethnic or religious hatred or enmity. Propaganda that advocates social, ethnic or religious, or linguistic supremacy is also prohibited by the Constitution.

50. In 1997, Poland amended its Penal Code, adopting provisions which prohibit incitement and racial hatred, and offences that are analogous to genocide. In Canada, advocating or promoting genocide is an indictable offence, punishable by up to five years of imprisonment.

2. Preventing incitement to racial or ethnic hatred on the Internet

51. In Canada, Denmark and Poland, the existing statutory provisions are considered applicable when hatred is communicated through the Internet. The Government of Lebanon stated that under the supervision of the President and the head of the executive authority, Ministers issue written orders and monitor their implementation to ensure that the dissemination of ideas based on racial superiority or racial discrimination through the Internet was punished in

accordance with the laws and regulations. "La Commission fédérale contre le racisme" pointed out that the official practice in Switzerland was to combat racism on the Internet through federal police teams which tracked racist sites.

52. The Government of the United States reported that the First Amendment to the Constitution curtailed the Government's ability to restrict or prohibit speech, expression or certain ideas, however objectionable. It stated that, therefore, some articles of the International Convention on the Elimination of All Forms of Racial Discrimination in that regard were inconsistent with its Constitution. However, while speech was protected, racist behaviour or racially motivated crimes were not. National and some state laws prohibited hate crimes. The Government also reported that the media (television, print and radio) and education initiatives were used to influence social behaviour by targeting large and diverse audiences.

3. Steps taken to declare illegal or prohibit hate organizations

53. Most respondent Governments reported that their countries had taken steps to declare illegal or prohibit hate organizations.

54. The Government of Austria stated that it regulated associations and organizations where the aim, name or organization was unlawful, that is, inconsistent with the European Convention on Human Rights.

55. The Government of the United States reported that it had not taken any steps to prohibit organizations which promoted and incited racial hatred as that would violate the constitutional right to free speech.

56. The Government of Israel reported that the Israeli election legislation had been reformed during the 1980s to prohibit the participation of racist political parties in national and municipal elections and that the law had been upheld in a landmark Supreme Court decision.

57. The Polish Constitution contains provisions that ban the existence of political parties and other organizations which invoke in their programmes totalitarian methods and practices of nazism, fascism, communism, as well as those whose programmes which include or allow for racial and national hatred. Similarly, Lebanon reported that it had ordered the dissolution, in accordance with its laws prohibiting racial discrimination and religious intolerance, of some political parties and organizations that had been formerly authorized to operate. Lithuania reported that it has refused several times to register a certain organization on these grounds as well.

58. Laws have been enacted in Belarus, Cuba, the Slovak Republic and Spain that prohibit the creation of associations whose aim is to incite inter alia racial, ethnic or religious hatred.

4. Steps to ensure equality before the law

59. According to the questionnaire responses received by the OHCHR, Governments are working to ensure equality before the law, without distinction as to race, colour, descent, or national or ethnic origin, in the enjoyment of political, civil, economic, social and cultural rights,

generally through statutory means. Most respondents had more or less enshrined the particular rights that comprise "equality before the law" in their constitutions, or their parliaments had passed domestic legislation that could be considered consistent with the principles of the International Convention on the Elimination of All Forms of Racial Discrimination.

60. Most respondents stated that their countries had enacted legislation that addressed each of the following principles: equal treatment before tribunals and equal rights to security of the person, to participate in the political process, to freedom of expression and assembly, to work and equal pay for equal work, to housing, to education, and to access to places or services.

61. Most of the respondent Governments also stated that their constitution, laws and administrative procedures provided individuals and organizations with the right to challenge government policy and practice through administrative review and the courts, and in effect to test the principle of equality before the law. Indeed, in many countries, the judicial system, particularly the appellate courts or the supreme court, have played a significant role in interpreting and upholding the principle of equality before the law. Two examples are the 1954 United States case of Brown v. Board of Education, in which school segregation was held to be unconstitutional, and the recent Canadian case of R. v. Williams (Victor Daniel), which ensures that jurors will not harbour racist attitudes towards accused persons. The following paragraphs outline other notable steps taken by individual Governments.

62. In Canada, equality before the law is also understood as an issue of access to the law. Therefore, the federal and provincial governments have instituted programmes such as legal assistance which provides legal representation for lower income or indigent persons and the Native Courtworker Program which enhances access to justice for Aboriginal persons involved in the criminal justice system.

63. The Government of Guatemala said that its cultural diversity and the existence of over 20 Maya languages had caused difficulties in access to justice for the many citizens did not speak Spanish. Its Procurator's Office has embarked on a project to regionalize and expand the prosecution services to provide greater access to the public (including through the provision of interpreters). In addition, community courts that apply both criminal law and local practices and cultures have been established in several communities that have large indigenous populations.

64. The Ombudsman's Office of Costa Rica stated that, although access to judicial proceedings was never denied, the requirement for identification documents in certain proceedings, might place illegal migrants at a disadvantage.

65. With regard to the right to equal treatment before tribunals, Denmark reported that its Ministry of Justice was considering replacing the legal requirement of Danish nationality as a condition of appointment as a juror or judge. The Administration of Justice Act may be amended to make the requirement three years of residence in Denmark, in order for jurors or lay judges to reflect the composition of the population.

66. The United Kingdom has committed itself to extending ethnic monitoring to all stages of the criminal justice system, including compulsory ethnic monitoring in all police force areas, covering stop seizures, arrests, cautions and homicides. The Government was also continuing its work on community policing and race relations.

67. The Government of Iceland reported that although the International Convention on the Elimination of All Forms of Racial Discrimination did not have the force of law domestically, it was of the opinion that its 1995 Constitution largely reflected the provisions of United Nations human rights conventions and the European Convention on Human Rights.

68. In some countries, and with respect to some rights, a legal distinction is made between the equality of nationals and non-nationals. For example, Austria's Constitution provides for the equality of "nationals" before the law. The Spanish Constitution states that "Spaniards are equal", whereas "aliens" in Spain shall enjoy public freedoms under terms laid down by treaties and the law.

69. In addition, there are countries where the right to equality before the law concerns only official acts, or laws or acts of the Government or its agents; it does not extend to discriminatory acts of private persons or entities.

5. Remedies for persons whose rights have been violated

70. Article 6 of the International Convention on the Elimination of All Forms of Racial Discrimination provides:

> "States parties shall assure to everyone within their jurisdiction effective protection and remedies, through competent national tribunals and other State institutions, against any acts of racial discrimination which violate his human rights and fundamental freedoms contrary to this Convention, as well as the right to seek from such tribunals just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination."

71. Generally, the questionnaire answers reveal that, where a person's rights have been violated, one course of remedy is criminal prosecution of the offender(s) by the State. However, by far the most frequent remedies are administrative review of government policy or action, and civil lawsuits in the courts. These civil options are available to individuals and, in certain cases, the Government (in the case of the United States, the Department of Justice) or a national institution (the Canadian Human Rights Commission) could initiate such proceedings on behalf of an individual or group. Some respondents indicated that court cases had led to the establishment of clearer standards with respect to acts of racial discrimination which violated rights and freedoms. In New Zealand, the Court of Appeal held that, in certain cases, breaches of the Bill of Rights Act could be remedied by the award of damages, despite the absence of an express provision to that effect in the Act itself.

72. In some countries there are other independent review mechanisms that provide remedies: human rights commissions, Ombudsperson offices, a police complaints commissioner, or an official languages commissioner.

73. A few respondents to the questionnaire reported that neither civil nor criminal cases had been brought before the courts in recent years and no complaints had been filed with their Ombudsperson offices.

74. The questionnaire answers did not yield any evidence of the effectiveness of these reported remedies, such as a decrease in reported race crimes. As discussed above, there have been some successful court cases, although it is unclear how many cases have been actually filed, and by whom, in the first instance.

6. National institutions

75. Some Governments stated that they had national institutions specifically charged with preventing racism, racial discrimination and related intolerance and/or investigating such cases. Countries such as Canada, Guatemala, New Zealand and the United Kingdom had established human rights commissions that investigated complaints of unlawful discrimination on enumerated grounds, which included colour, race, ethnicity and national origin. In some cases they could also investigate a case and refer it to trial. In certain countries, there also exist Ombudsperson offices and complaints and investigation mechanisms concerning police services.

76. In some countries there exist national human rights institutions which perform other functions in the field of combating racism, racial discrimination, xenophobia and related intolerance. These functions include collecting information and statistics, undertaking research and preparing reports, preparing documents for public dissemination, human rights counselling, advising the Government on human rights issues, and public education (Austria, Iceland, Russian Federation, Slovak Republic, Spain, Switzerland).

77. Some Governments stated that although they did not have national institutions specifically charged with preventing or investigating racism, racial discrimination, xenophobia and related intolerance, the matter was addressed through other governmental and through non-governmental means. The Government of the United States reported that although there did not exist a specific national institution with that focus, human rights responsibilities were shared by the Department of Justice, sector-based bodies such as the Equal Employment Opportunity Commission and the Bureau for Indian Affairs, and non-governmental organizations. Similarly, in countries such as Austria and Poland courts, government departments or administrative bodies decided and monitored cases of racism and racial discrimination. In Peru several NGOs were concerned with the issue of racial discrimination.

7. Training of law enforcement and judicial officials

78. Every respondent stated that human rights training was in place or was in the process of being implemented for their respective law enforcement and judicial officials. Some respondents noted that some or all judicial, police service and prison officials were receiving or would receive specialized training to prevent racism, racial discrimination, xenophobia and related intolerance.

79. For example, the Governments of Croatia and the Slovak Republic pointed out that the issue of the treatment of racial and ethnic minorities by police services and the training in that respect of law enforcement personnel were of particular importance to them.

80. The Government of Madagascar mentioned that under a technical assistance agreement with the OHCHR, human rights training was planned for February 2000.

8. Steps taken to ensure the equal enjoyment by women of their rights

81. The questionnaire responses indicate that there are few laws, policies or programmes in countries specifically addressing the equal enjoyment of their rights by women who are at an additional disadvantage owing to racial or ethnic discrimination, xenophobia or related intolerance. It was pointed out by some respondents that these women were covered by the same policies and measures extended to other women. There were a few exceptions to this trend. For example, in addition to its Office for Human Rights, The Government of Guatemala reported that it also had an Ombudsman for Indigenous Women.

82. Some respondent Governments stated that, in addition to constitutional protection and domestic law on the rights of women and statutory provisions guaranteeing their equality before the law, they were giving effect to the principles of the Beijing Declaration and Platform for Action of the Fourth World Conference on Women. Respondents reported that policy and programming sectors included, social security, health, education, financial, labour and economic sectors.

83. The Government of Spain stated that its Third Plan for Equal Opportunity for Women and Men was aimed at promoting the participation of women in all spheres of social activity and that the Government was focusing on the area of "social exclusion".

D. The Committee on the Elimination of Racial Discrimination (CERD)

84. Every government respondent to the questionnaire is a party to the International Convention on the Elimination of All Forms of Racial Discrimination.

85. Every respondent expressed general willingness to promote further constructive dialogue with CERD. A few respondents stated that they were willing to seek the services of CERD in the field of preventive diplomacy and agreed that the early warning and urgent procedures of CERD should be strengthened.

86. The Government of the United States stated that it welcomed "active engagement" to explore how CERD could make more effective use of its mandate on country reporting in order to provide an early-warning capability to States parties.

87. The Government of Austria suggested that CERD could coordinate its early warning and urgent procedures with other human rights mechanisms such as the various Special Rapporteurs and the technical assistance programme of OHCHR. The prevention capacities of CERD could

be strengthened by a focused exchange on relevant mechanisms, including the Working Group on Minorities and follow-up on the observations of the Committee after the consideration of State party reports.

88. The Government of Cuba pointed out that treaty bodies like CERD had not been established as early warning systems and that other United Nations mechanisms were better placed to carry out that task. The best "preventive diplomacy" that CERD could undertake was the continuation and streamlining of its consideration of the periodic reports, and its recommendations for improving the implementation of the Convention.

9. Obstacles to the submission of regular reports to CERD

89. In the view of respondent Governments, there are several obstacles to the submission of periodic reports to the Committee on the Elimination of Racial Discrimination.

90. Many respondents stated that the key obstacle was the fact that there was often a simultaneous need to submit reports on similar subjects to other treaty and non-treaty bodies. There appeared to be a proliferation of international mechanisms which required the submission of human rights information, and many issues reported on to CERD overlapped with those addressed in reports to other bodies.

91. Several government respondents noted the lengthy period between the submission of a report to CERD and its actual consideration by the Committee; and, conversely, the short period before a new report was due for submission. There was also a perception that CERD had too heavy a workload.

92. The submission of regular reports was also hindered by a country's bureaucracy, limited funding and human resources. The provision of periodic reports was particularly difficult for small and developing countries and in federal systems with small provinces, territories or states that had limited personnel and financial resources. The Governments of the Slovak Republic and the United States pointed out that in many countries, race and racial discrimination were complex issues that involved more than one level of government, as well as the input of NGOs and the private sector. The Governments of New Zealand and the United States suggested that OHCHR should consider programmes to assist countries in completing their reports. The Government of the United States indicated that NGOs might wish to make suggestions to Governments that had structural or policy impediments which hindered the fulfilment of CERD implementation and/or reporting obligations.

93. Some improvements to the reporting process were suggested by the Government of Austria. It recommended that the CERD reporting procedures should be reviewed and the responsibilities of country rapporteurs be increased. It was also suggested that countries might submit comprehensive initial reports that were followed by shorter periodic updating reports. Reporting countries could also make reference to other relevant reports that they had submitted to other treaty and non-treaty bodies.

94. The Government of Cuba indicated a failure by officials of some States parties to assume their responsibility to prepare reports as was required under the Convention. It also pointed to

domestic obstacles, particularly in developing countries, including inadequate contact and cooperation between the various departments and ministries of the State that must submit the information used to draft the reports.

E. International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

95. Chile as well as Mexico (through the response of its National Human Rights Commission) are the only respondents to the questionnaire which are also parties to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.[2] Some factors were cited as preventing accession to the Convention. Most respondent Governments stated that everyone legally authorized to work in their territory was protected by domestic legislation and employment standards. A few respondents stated that some of the provisions of the Convention were contrary to the national employment system. The Government of Austria stated that another factor was that the Convention definition of a "migrant worker" did not make a distinction between persons legally and illegally engaged in a remunerative activity. Further, several respondents stated that the rights of migrant workers were being addressed, and should continue to be so, through the International Labour Organization (ILO) or under regional agreements concerning migrant workers.

96. As a result, many Governments noted that they had no plans to ratify or accede to the Convention on migrant workers. Further, one respondent stated that the low signatory and ratification level[3] in the decade since the Convention had been adopted, signalled little support for the Convention as a human rights instrument, and that accession to the Convention on Migrants should not be an objective of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance.

F. Immigration policies

97. Several government respondents to the questionnaire stated that their country had not reviewed or made any revisions to its immigration policies as they were in conformity with human rights standards and in the spirit of international human rights instruments. Some countries had reviewed, and where necessary, revised their immigration policies to increase coherency with international human rights instruments.

98. The Government of Belarus reported that its Parliament had enacted a new immigration act in July 1999, which conformed with international standards.

99. The Government of Chile responded that in 1999, it had extended the period within which Peruvian immigrants could regularize their situation.

100. The Government of Lithuania stated that a new Law on the Legal Status of Aliens had been enacted in Lithuania in 1998. Under that Act previous immigration "quotas" had been abolished.

101. The Government of Portugal reported that it had recently introduced a new legal regime in the field of immigration to address the issues of immigrants, refugees and foreigners, and which prohibits discrimination in immigration based on race, nationality or ethnic origin.

102. The Government of the United States stated that in 1994 it had instituted a "diversity lottery" which provided 50,000 visas for permanent immigration in order to facilitate immigration from countries that were not historically countries of origin.

G. Steps taken to address contemporary forms of racism

103. Some respondent Governments indicated that it was not necessary to address contemporary forms of racism, racial discrimination or any form of discrimination because they were not present in the domestic situation, or because the groups or practices (inter alia, Blacks, Arabs and Muslims, xenophobia, Negrophobia, anti-Semitism and related intolerance including indigenous peoples, migrants, refugees, displaced persons and Roma) were not to be found in the population. A few respondent Governments pointed out that the steps taken by them applied to all forms of discrimination and were not focused on a particular group of persons.

104. The Governments of the Slovak Republic and Poland stated that they had been taking steps to address contemporary forms of racism, racial discrimination and any form of discrimination against the Roma people. It was pointed out that that had been and continued to be a difficult problem to address because the Roma were at once isolated and often themselves limited their contacts with society as well. In Poland, the Ministry of Education had established a new educational syllabus and had introduced integrated classes of Roma children and Polish children, but implementing that measure had proved difficult.

105. The Roma of the Slovak Republic were granted the status of a national minority in April of 1991, and in February 1999, the Government appointed a member of the Roma community to the post of Plenipotentiary of the Government of the Slovak Republic in order to address the problems of the Roma minority. The Government has made the Roma the focus of dedicated government policy, inter alia in the areas of education, language, culture, unemployment, housing, social security and health. The Government also reported that it was conducting an ongoing dialogue with Roma representatives, organized round-table discussions and was monitoring racist movements and activities.

106. In Spain also steps are being taken to improve the quality of life of Roma women and men by promoting their participation in public and social life through its Programme for Gypsy Development. The Government stated that it was working with NGOs and associations on technical and financial programmes.

107. A Hungarian non-governmental organization reported that a Roma political party (Tzigan) had been established and that it had membership in the Parliament.

108. The Government of Israel reported that through its policy of "affirmative action" it had set as a major policy objective "the need to work toward full and equal rights for all Arab, Bedouin, Druze, Circassian and other citizens of Israel, and to correct past inequalities in the allocation of resources" and that, in that context, "the gap between the Jewish majority and the

Arab minority had been considerably diminished over recent years, but nevertheless, regrettably, still existed". It stated that it had invested more funds "in the Arab sector as part of an affirmative action effort, in order to reduce social gaps and address the fundamental problems of education, planning, development, industry and housing". To that end, it had established a Ministerial Committee to deal with Arab Population Affairs to implement the affirmative action policy and it was making special efforts to integrate Arabs in the public sector, especially the civil service. The Government of Israel also stated that it was providing services and special assistance programmes to the Ethiopian Jewish community to facilitate their successful integration into Israeli society.

109. In order to deal with contemporary forms of racism, a legislative reform package is being prepared in Chile with a view to covering all forms of discrimination and to penalizing any form of discrimination practised by a private or public entity.

H. Measures to guarantee the rights of indigenous populations

110. OHCHR received nine substantial responses to the question of legislative, administrative or other measures taken to guarantee the rights of indigenous populations.

111. The Government of Chile reported that The Indigenous Peoples Act punished discriminatory behaviour directed against indigenous persons. That Act had provided for the establishment of the National Indigenous Development Corporation (CONADI), which was responsible for promoting, coordinating and giving effect to the comprehensive development (economic, social and cultural) of indigenous peoples in Chile. The question of land had been the subject of recent discussions between the Government, CONADI and indigenous groups. There was also a bill before Congress calling for the recognition of indigenous groups. The Technical Secretariat for Indigenous Affairs (SETAI) had been created with the purpose of promoting, coordinating, directing, supervising and evaluating gender-sensitive policies, plans and programmes, and projects for the development of peasant and native communities, while respecting their ethnic and cultural identity and their own forms of organization. The Commission on Indigenous Affairs had also been established by drawing on representatives from various government departments such as those of education, health, defence, agriculture and industry, and the Office of the President. It also included indigenous representatives, one of whom chaired the Commission.

112. The Ombudsman's Office of Costa Rica stated that the Government had ratified the ILO Convention on Indigenous and Tribal Populations (No. 169), which dealt with the issue of land in indigenous territories, and the Government had also committed itself to respecting and ensuring the realization of all other rights contained in that Convention. Costa Rica had also signed ILO Convention No. 107, which had been the basis of a series of laws on indigenous peoples that were "strongly integrationist in intent". A new Act had been promulgated in Costa Rica which recognizes the State's obligation to ensure the maintenance and promotion of national indigenous languages.

113. The Government of Canada reported that the Royal Commission on Aboriginal Peoples had completed its report in 1996 after five years of research, consultations and public hearings. Among its over 400 recommendations touching on all aspects of Aboriginal/Government

relations in Canada, was the conclusion that a fundamental change was needed in the relationship between Aboriginal and non-Aboriginal peoples. The Federal Government had responded by issuing "Gathering Strength: Canada's Aboriginal Action Plan", which included a Statement of Reconciliation. The Government was committed to renewing partnerships with Aboriginal peoples, strengthening Aboriginal governance, developing a new fiscal relationship and supporting strong Aboriginal communities, people and economies. In addition, the Government had released its policy on the implementation of the inherent right of, and the negotiation of Aboriginal self-government. Since 1995, it had settled land claims, signed self-government agreements and it had negotiated the creation of a new territorial government called Nunavut. According to the Government's questionnaire response, although barriers still exist for indigenous peoples in Canada, there has been some important progress.

114. The Government of the Russian Federation stated that the rights of "small indigenous peoples", such as the right to preserve one's native language, were safeguarded by the Constitution and that the protections were consistent with principles and standards of international law. The Small Indigenous Peoples (Legal Guarantees) Act adopted by the Duma in 1999, provided State compensation and guarantees for persons living in the North and Arctic regions, and general principles governing the organization of small indigenous communities. The Government had also prepared bills on traditional environment management zones of small indigenous peoples of the North, Siberia and the Far East which addressed land use, compensation for the industrial development of such regions, the establishment of conditions for the revival of traditional economic activities, and cultural and educational rights.

115. The Government of Guatemala reported that the Agreement on the Identity and Rights of Indigenous Peoples, signed in 1995, committed it to concrete action in the fields of indigenous peoples' identity, the fight against discrimination, cultural rights and civil, political, social and economic rights.

116. The Government of New Zealand stated that, under the Treaty of Waitangi Act of 1975, a permanent commission of inquiry called the Waitangi Tribunal was mandated to inquire into and make findings and recommendations to the Crown on claims relating to the Treaty. The Government had negotiated with the Maori several claims over the years and, in 1992, the Ministry of Maori Development (Te Puni Kokiri) had been established.

117. The Government of the United States noted that it had government-to-government relations with some federally-recognized tribal governments. It stated that different government departments held regular and meaningful consultations and dialogue with tribal governments and communities. An extensive body of treaties, administrative policies and court decisions enumerated the rights of the indigenous population. A number of laws, including the American Indian Religious Freedom Act, the 1992 Tribal Amendments to the National Historic Preservation Act, and the Native American Languages Act, protected native cultures and attempted to correct damage from the past. With regard to compensation, Congress had acted through The Indian Claims Act, special settlement act legislation and other mechanisms to provide compensation for lands and address other land issues.

118. The Government of Denmark stated that the Home Rule Act had enabled Greenland (where the majority of the population was indigenous) to assume responsibility in all areas

concerning the community, including cultural affairs. Under that arrangement, Greenland was part of the Danish Realm and was defined territorially as the Island of Greenland, and the arrangement is not linked to the criteria of ethnic origin.

119. The Mexican National Human Rights Commission stated that the Constitution of the United States of Mexico provided, in article 4:

> "The composition of the Mexican nation is multicultural, deriving originally from its indigenous peoples. The law is required to protect and promote the development of their languages, cultures, usages, customs, resources and specific forms of social organization and to guarantee their members effective access to the jurisdiction of the State. In judgements and proceedings in agrarian matters to which the latter are party, account shall be taken of their legal practices and customs laid down by the law."

I. Increasing the level of awareness about racism

120. Under article 7 of the International Convention on the Elimination of All Forms of Racial Discrimination, States Parties undertake to adopt immediate and effective measures, particularly in the fields of teaching, education, culture and information, with a view to combating prejudices which lead to racial discrimination and to promoting understanding, tolerance and friendship among nations and racial or ethnic groups.

121. Every respondent to the question regarding action taken under article 7 cited the fundamental importance of education in increasing awareness about the scourges of racism and racial discrimination, xenophobia and related intolerance. The teaching of tolerance and diversity, especially to youth, was seen as a cornerstone in that respect. Many respondents stated that diversity education and human rights consciousness-raising could be achieved through the educational curricula of a given country.

122. The mass media should be used as a tool to disseminate information about different racial, ethnic and religious groups and cultures. In Canada, the federal public broadcasting and telecommunications service utilizes national radio broadcast and television programming to reflect the diversity of Canadian society and the particular place of Aboriginal peoples. This cultural measure has been used effectively to prevent forms of racial discrimination. In Cuba also, the mass media have become effective tools for education and the promotion of human rights in the country.

123. The Swiss Federal Commission against Racism, pointed to the importance of involving racial, ethnic and religious minorities, as well as immigrants, in devising programmes of education and awareness-raising.

124. The Government of the United States suggested the convening of "facilitated dialogues" on race relations as a means to raise awareness, because intolerance is based in ignorance. Also, several Governments and NGOs supported the organization of international student congresses to raise awareness.

125. The Government of Israel underlined the importance of positive public statements by political leaders, policy-makers and other spokespersons.

126. Many respondents pointed to the need to use the Internet to increase the level of awareness about the scourges of racism, racial discrimination, xenophobia and related intolerance.

127. The role of NGOs was also cited as an important component of awareness-raising. Some Governments and NGOs pointed to the very limited resources available for awareness-raising initiatives, which was a constraint on the ability to combat racism effectively.

128. Limited information was forwarded to OHCHR on the effectiveness of the measures undertaken in the fields of teaching, culture and information to combat racial prejudice.

J. Increasing the effectiveness of United Nations activities and mechanisms

129. The questionnaire asked respondents to make concrete recommendations for increasing the effectiveness of United Nations activities and mechanisms through programmes aimed at combating racism, racial discrimination, xenophobia and related intolerance

130. The Government of Madagascar emphasized the importance of providing material and financial assistance to developing countries in order to encourage and improve public awareness programming about racism, racial discrimination, xenophobia and related intolerance.

131. An NGO based in Ghana suggested that the United Nations work to formulate a human rights and racial discrimination educational programme which should be made part of national educational curricula.

132. The Government of Cuba made several recommendations. In order to increase the effectiveness of the United Nations in this area, the Third Decade to Combat Racism and Racial Discrimination should be financed from the regular budget of the United Nations, not from extrabudgetary donations from member States. OHCHR should establish a fourth branch which would deal with all matters relating to the fight against any form of discrimination and with the promotion of the rights of minorities, indigenous peoples, migrant workers and other vulnerable groups. It also recommended that the United Nations increase efforts to complete the negotiations on the Universal Declaration on Indigenous Rights; that States should be encouraged to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; that the Commission on Human Rights should undertake the drafting of minimum international standards in the fight against racism, racial discrimination, xenophobia and related intolerance, and that it draw up a code of ethics governing the use of the media, particularly the operation of the Internet.

133. The Government of Chile suggested that international meetings for young people from different countries should be convened to allow them to share experiences which would raise awareness. Other "awareness-raising" suggestions included promotional campaigns using

booklets, posters and the Internet, the staging of mega-events with the collaboration of artists, sports celebrities, singers and musicians, and the convening of meetings of officials with an interest and responsibility in this area.

134. Similarly, the Government of Denmark suggested that further programmes should be elaborated to involve the youth of all countries in order to strengthen youth networks irrespective of frontiers, cultures, religious or political backgrounds.

135. The Government of Austria recommended the creation of a forum comprised of the existing international human rights procedures, technical cooperation programmes, treaty bodies and special rapporteurs, which would be supported by OHCHR.

136. The Government of the United States stated that education was important and that OHCHR should undertake human rights education initiatives in the area of racism, racial discrimination, xenophobia and related intolerance. It emphasized the need for preventive diplomacy in ethnic and racial conflicts, and stated that the preparatory phase of the World Conference presented a good opportunity to inculcate it. The Government recommended the deployment of a small number (one or two) of OHCHR staff in large cities in the regions in order to establish a dialogue with NGOs and local officials. Those meetings should involve resource materials, panel discussions and the report of the meetings should suggest "best practices". Finally, all United Nations missions should contain a component on the prevention of racial discrimination.

137. Several Governments and NGOs supported the idea of United Nations experts and of member State "expert exchanges" in the field of racial discrimination, xenophobia and related intolerance.

138. The Government of Israel stressed the need for new and original solutions to combat racism and related discrimination. It stated that the United Nations should assume greater responsibility in that field and assume a leading role, particularly with respect to education. That could be achieved through financial assistance for education and extracurricular activities, incentives and school grants to encourage studies and research in the related areas of law, psychology, history, community, political science and education. Another recommendation was the establishment of international summer camps, to be attended by youth from all over the world.

139. The Government of Peru referred to the importance of financial and logistical support from the United Nations.

140. An Africa-based NGO suggested that a department of the United Nations should be dedicated to deal with issues of racism that occurred in each country of the world. It would support the work of the Special Rapporteur, the Commission on Human Rights and the High Commissioner for Human Rights. In addition, such a department should form an "international observation network" to work closely with national, regional and international NGOs.

K. The factors that lead to racism, racial discrimination, xenophobia and related intolerance

141. The respondents were asked to review the political, historical, economic, social and cultural factors leading to racism, racial discrimination, xenophobia and related intolerance. There was little consensus and information provided on the question of factors leading to racism. One respondent stated that the very question invited speculation and that what was required was scientific research. Some respondents did not answer the question. One respondent pointed out that all of the stated factors merited attention.

142. Nevertheless, some Governments and some NGOs pointed to the influence of economic factors in causing racism. Several stated that in many developing countries, a colonial past and neo-colonialism had led to the subjugation of one race or culture and the domination of another. It was pointed out that that had been the experience of Latin America, and of many African and Asian countries. Some respondents pointed out that the concentration of wealth, and its attendant political power, in the hands of a few were also factors that led to racism and racial discrimination.

143. Some respondents referred to domestic economic problems and perceptions about immigrants, refugees and asylum-seekers as factors which motivated intolerance and racial discrimination.

144. It was pointed out that psychological factors were also important: insecurity, anger, hatred, fear and aggression, which were common to humanity, often influenced behaviour that could manifest itself as racism, racial discrimination, xenophobia and related intolerance.

145. In the response of the Government of Lebanon, it was stated that racism was virtually non-existent there. However, intermittent conflicts with its neighbour had given rise to some racial discrimination and xenophobia. Similarly, several other government respondents noted that the situation of racism and ethnic relations in their countries was largely determined by the overall stability in the region.

146. One respondent stated that a decrease in the number of cases of racial discrimination in the world would result from changes in living conditions and in mentality, and from increased cultural contacts.

L. Furthering action-oriented measures at the national, regional and international levels

147. The respondents were asked to formulate concrete action-oriented measures to be undertaken at the national, regional and international levels to further combat racism, racial discrimination, xenophobia and related intolerance.

1. At the national level

148. Countries should ensure the creation of the office of Ombudsperson at the national and sub-national level (state, cantonal, provincial, territorial) and provide assistance to victims. States should re-evaluate their naturalization policies and processes.

149. The Mexican Human Rights Commission suggested that the most effective means of countering racism would be the incorporation of multiculturalism in daily life and in educational curricula.

150. It was suggested that all countries should adopt a human rights educational curriculum with an explicit focus on racism, racial discrimination, xenophobia and related intolerance. This should be linked to the modern mass media and especially the Internet.

151. Another recommendation was that countries should allocate resources to strengthen human rights enforcement domestically. The efficiency of social workers and educational professionals should be improved and their work supported.

152. It was suggested by the Swiss Federal Commission against Racism that all parties to the International Convention on the Elimination of All Forms of Racial Discrimination should remove their reservations to article 2 of the Convention.

153. Several respondents supported the establishment of national "best practices" forums and ongoing constructive dialogue between Governments, racial and ethnic groups, indigenous populations and NGOs.

154. It was recommended that all Governments should improve their linkages and cooperation with national and local NGOs working in the field of racism, racial discrimination, xenophobia and related intolerance.

2. At the regional level

155. Several respondents supported regional initiatives to combat all forms of racism, racial discrimination, xenophobia and related intolerance. There was great support for regular regional meetings of regional organizations such as the Organization of American States, the European Commission, the Council of Europe and the Organization for African Unity.

156. It was also suggested that regional meetings involving national, regional and international authorities should be held to adopt and implement specific measures on matters of common concern, such as the Roma, refugees, indigenous populations, and racial and ethnic conflicts.

3. At the international level

157. Several action-oriented measures at the international level were suggested, including the creation of a worldwide public education campaign to combat racism, racial discrimination, xenophobia and related intolerance, and international "best practices" forums sponsored or organized by the United Nations, to be held in different regions of the world.

158. The Government of Chile stated that all member States should encourage specialized agencies, intergovernmental organizations and United Nations bodies to include combating racism and intolerance in specific measures and in their policies.

159. The Ombudsman's Office of Costa Rica recommended that the International Federation of Ombudsmen should be encouraged to address specifically the subject of racism, racial discrimination, xenophobia and related intolerance in its agreements and in joint programmes of action within its sphere of influence.

160. It was recommended that all countries should ratify the International Convention on the Elimination of All Forms of Racial Discrimination and embrace its core principles. It was also recommended that States parties should implement article 14, in accordance with which a State party may declare that it recognizes the competence of the Committee to receive and consider complaints from individuals or groups of individuals.

161. One NGO referred to the significant issue of discrimination against the Dalit ("untouchables") and the practice of "castism" in some countries and its particular implications for women, and suggested that that issue needed to be addressed by the international community.

162. The Government of Portugal stated that it was not necessary to create new international instruments; rather, it was advisable to improve the existing instruments and mechanisms.

M. National institutions

163. Three of the six respondent national institutions (Ombudsmannen Mot Etnisk Diskriminering (Sweden), the Ombudsman's Office of Costa Rica and the Board for Ethnic Equality (Denmark)) stated that the International Convention on the Elimination of All Forms of Racial Discrimination was included in their mandates. The mandates of the other respondent national institutions could be found in the constitutional framework of the State or in national legislation, such as the Canadian Human Rights Act and the Swedish Law on the Ombudsman against Ethnic Discrimination.

164. Where the mandate of a national institution was based on a national enabling statute on discrimination, or on the International Convention on the Elimination of All Forms of Racial Discrimination, the activities of the national institutions varied greatly from data collection to educational activities, and from advising the Government to investigating individual complaints of discrimination.

165. The activities of the national institutions can generally be summarized as the following: (i) investigating complaints of discrimination in employment and in the provision of services

based on grounds enumerated in the legislation (Canada); (ii) investigating complaints alleging inequities in pay between men and women who are performing work of equal value (Canada); (iii) monitoring and, where necessary, taking action to ensure employer compliance with an employment equity act (Canada); monitoring government fulfilment of the International Convention on the Elimination of All Forms of Racial Discrimination and other human rights legislative obligations (Denmark); (iv) monitoring programmes, policies and legislation affecting designated groups (women, Aboriginal peoples, visible minorities and persons with disabilities) to ensure that their human rights are protected (Canada); (v) developing and conducting information programmes to promote understanding of the legislation and the role and activities of the national institution (Canada, Switzerland); (vi) producing education materials on ethnic discrimination (Sweden, Demark); (vii) investigating individual complaints and, as a final measure, taking labour law cases to court (Sweden); (viii) providing advice on the question of discrimination to various levels of government and public bodies (Denmark, Switzerland); (ix) collecting data and creating information databases (Denmark); and (x) preparing annual reports on the national institutions' activities (Canada, Denmark, Sweden, Switzerland).

166. According to the Constitution, the Mexican National Human Rights Commission receives and hears complaints alleging violations of human rights. The Commission is mandated to investigate acts and omissions of the legislative authorities and formulate non-mandatory recommendations to the authorities; to foster a reconciliation between parties; and to encourage the observance of human rights.

II. CONCLUSIONS

167. An analysis of the responses to the questionnaire leads to some general conclusions.

Progress in the fight against racism and obstacles to further progress

168. If progress is interpreted to mean the enactment by States of constitutions and legislation, then progress has been made at the national level in the fight against racism, racial discrimination and related intolerance. It appears that racial discrimination, xenophobia and related intolerance is a highly legislated field. With few exceptions, most respondents noted that several laws had been enacted to address the issue of racial discrimination in areas such as incitement to racial hatred, discriminatory labour and consumer practices, discrimination against women, equality before tribunals, equality in housing, and laws against racist or hate organizations.

169. While not universal or exclusive, these laws are often consistent with the International Convention on the Elimination of All Forms of Racial Discrimination, to which every respondent was a party.

170. Are these constitutional protections and ameliorative laws put into practice or tested? How do they work in practice? The questionnaires yielded little evidence of the effectiveness of these constitutional guarantees and statutory advancements. Further, there are very few benchmarks to test success and progress. Few Governments reported that they evaluate the effectiveness of their laws, and the policies and programmes derived therefrom. The difficulty of determining what constituted effectiveness was also pointed out.

171. The absence of governmental benchmarks is mirrored by the absence of an international standard to measure progress in the fight against racism, racial discrimination, xenophobia and related intolerance. Where it can, CERD makes suggestions and recommendations to individual Governments. However is this sufficient indication? This is, perhaps, an area for further discussion, consideration and study at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance.

172. There was limited feedback on the question concerning the obstacles to further progress and ways to overcome them. This may be linked to the issue of evaluating effectiveness, since it is difficult to determine and measure obstacles to further progress and ways to overcome them unless there is a means of evaluating the effectiveness of the measures which have been taken.

173. Nevertheless, the responses indicate that there has been some progress in the international community in the field of racism, racial discrimination, xenophobia and related intolerance since the adoption of the Universal Declaration of Human Rights in 1948. Constitutional guarantees and laws are in place, there is increased racial and ethnic representation in government and the public service, and many government policies and programmes and some national institutions have been established. Further, the responses show that there is a renewed recognition and commitment to the issue of racism, racial discrimination, xenophobia and related intolerance on the part of NGOs and Governments, particularly in preparation for the World Conference against Racism, Racial Discrimination and Related Intolerance.

The factors leading to racism

174. The questionnaire responses revealed that there is little consensus and limited information on the factors that lead to racism.

175. A few respondents pointed to economic factors, such as the concentration of wealth, globalization and historical colonial regimes in given countries, which hampered the economic development of certain groups and perpetuated racist practices. Some respondents expressed the view that regional stability affected the internal racial and ethnic situation. Other factors indicated were political and psychological in nature.

176. The question of the political, historical, economic, social, cultural and other factors leading to racism is complex. Several respondents did not answer the question. Thus, there is insufficient information to arrive at a conclusion. Perhaps, as noted by one respondent Government, further scientific research is required in this particular area.

Education

177. Each and every respondent - Governments, national institutions and NGOs - agreed on the fundamental importance of education in combating racism, racial discrimination, xenophobia and related intolerance.

178. Education required the attention of governmental and non-governmental organizations, regional organizations and the United Nations. It was agreed that education and information

campaigns raised awareness about racism and its consequences, and were necessary for children and young persons, as well as the general public. Finally, education must be addressed at all levels - national, regional and international - and through educational curricula and the media, including the Internet.

The Committee on the Elimination of Racial Discrimination

179. The Committee on the Elimination of Racial Discrimination was credited by government respondents as having an effective and important role in the fight against racism, racial discrimination, xenophobia and related intolerance. However, it was pointed out that the reporting process could be very demanding and presented several logistical and financial obstacles. A review of the reporting obligations and increased assistance to developing countries in meeting them would increase the effectiveness of the Committee. Some of the respondents were amenable to cooperating with CERD on the issues of preventive diplomacy, and early warning and urgent procedures.

The Office of the High Commissioner for Human Rights

180. The Office of the High Commissioner for Human Rights was often cited as the key United Nations organ in the fight against racism, racial discrimination, xenophobia and related intolerance. It was stated that by assuming a clear leadership role, the High Commissioner for Human Rights and her Office were instrumental in increasing the effectiveness of activities and programmes aimed at combating racism and racial discrimination, xenophobia and related intolerance. It was recommended that OHCHR should focus, inter alia, on: technical assistance in such areas as training for the judiciary and for law enforcement officials, reporting under the International Convention on the Elimination of All Forms of Racial Discrimination, advising on national institutions, education initiatives, increased support to treaty bodies, including CERD, and studying and ensuring other ways and means to achieve further progress in the fight against racism, racial discrimination, xenophobia and related intolerance.

Notes

[1] The Office received replies from 28 States, 2 specialized agencies, 2 international governmental organizations, 10 international non-governmental organizations and 5 national institutions.

[2] Chile is a signatory to the Convention. Mexico has signed and ratified the Convention.

[3] The Convention was adopted by the General Assembly on 18 December 1990. As at 1 February 2000, there were six signatories and nine accessions to the Convention.

Annex I

QUESTIONNAIRE CIRCULATED BY THE HIGH COMMISSIONER PURSUANT TO PARAGRAPH 49 (a) OF COMMISSION ON HUMAN RIGHTS RESOLUTION 1999/78, WITH A VIEW TO REVIEWING PROGRESS MADE IN THE FIGHT AGAINST RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE AND REAPPRAISING THE OBSTACLES TO FURTHER PROGRESS

Question 1: What progress has been achieved in your country in the fight against racism, racial discrimination, xenophobia and related intolerance, in particular since the adoption of the Universal Declaration of Human Rights, what are the obstacles to further progress in this field and how might those obstacles be overcome?

Question 2: How does your Government evaluate the effectiveness of its policies and practices aimed at eliminating all forms of racial discrimination and at promoting understanding, tolerance and friendship among nations and racial or ethnic groups?

Question 3: What ways and means could be used to ensure more effective implementation of existing standards and instruments to combat racism, racial discrimination, xenophobia and related intolerance, including:

(a) In the light of article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination, what measures are being taken to prevent incitement to racial or ethnic hatred by any persons whatsoever (including by use of the Internet) and to declare punishable by law all dissemination of ideas based on racial superiority or hatred?

(b) Have steps been taken to declare illegal and to prohibit organizations, which promote and incite racial discrimination, and has participation in such organizations and activities been criminalized in domestic law?

(c) In the light of article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination, what steps are being taken to ensure equality before the law, without distinction as to race, colour, descent, or national or ethnic origin, in the enjoyment of political, civil, economic, social and cultural rights, in particular:

(i) Equal treatment before tribunals;

(ii) Equal rights to security of person;

(iii) Equal rights to participate in the political process;

(iv) Equal rights to freedom of expression and assembly;

(v) Equal rights to work and equal pay for equal work;

(vi) Equal rights to housing;

(vii) Equal rights to education;

(viii) Equal rights of access to places or services?

(d) In the light of article 6 of the International Convention on the Elimination of All Forms of Racial Discrimination, what remedies exist for persons whose rights have been violated and what evidence is there to consider that these protections are effective (for example number of successful court cases, decrease in reports of racial crimes)?

(e) Indicate what independent national institutions are charged with the prevention of racism, racial discrimination, xenophobia and related intolerance and/or if investigation of such cases exists. Please specify their mandates.

(f) Indicate what training and supervision is undertaken to prevent racial discrimination by law enforcement officials, judicial officers and prison officials.

(g) Considering that women are often at an additional disadvantaged position, what steps have been taken to ensure their equal enjoyment of the rights listed above?

Question 4: If your country is not yet a party to the International Convention on the Elimination of All Forms of Racial Discrimination, please indicate:

(a) What are the considerations which may have prevented its ratification or its accession to the Convention?; and

(b) What steps have been taken or are being planned with a view to the ratification or the accession to the Convention, such as bringing it before the authority or authorities within whose competence the matter lies for the enactment of legislation?

Question 5: If your country is party to the International Convention on the Elimination of All Forms of Racial Discrimination, will it be prepared to promote further the constructive dialogue with the Committee on the Elimination of All Forms of Racial Discrimination by seeking, inter alia, its services in the field of preventive diplomacy, and to strengthen the CERD's early warning and urgent procedures?

Question 6: Which, in your Government's view, are the main obstacles preventing a number of States parties to provide regularly their reports or to provide extensive information on their implementation of the International Convention on the Elimination of All Forms of Racial Discrimination?

Question 7: If your country is not yet party to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, please indicate:

(a) What are the considerations which may have prevented its ratification or its accession to the Convention?;

(b) What steps have been taken or are being planned with a view to the ratification or the accession to the Convention?

Question 8: Has your Government reviewed and, where necessary, revised its immigration policies which may be inconsistent with international human rights instruments with a view to eliminating all discriminatory policies and practices against migrants?

Question 9: Indicate any steps taken to address contemporary forms of racism, racial discrimination, any form of discrimination against, inter alia, Blacks, Arabs and Muslims, xenophobia, negrophobia, anti-Semitism and related intolerance including indigenous peoples, migrants, refugees, displaced persons and Roma. Could you indicate if there is a particular problem for one or more of the groups cited above; if so, are there special measures that have been adopted to address this situation?

Question 10: What legislative, administrative or other measures have been taken to guarantee the rights of indigenous populations? Have any measures been taken to guarantee their cultural rights and to provide for a return of land and/or compensate for the loss of such right?

Question 11: Could you indicate ways to increase the level of awareness about the scourges of racism and racial discrimination, xenophobia and related intolerance in the light of article 7 of the Convention? In this connection how effective are the measures, in the fields of teaching, education, culture and information, which have been undertaken to combat racial prejudice?

Question 12: Could you formulate concrete recommendations on ways to increase the effectiveness of the activities and mechanisms of the United Nations through programmes aimed at combating racism, racial discrimination, xenophobia and related intolerance?

Question 13: Could you review the political, historical, economic, social, cultural and other factors leading to racism, racial discrimination, xenophobia and related intolerance?

Question 14: Could you formulate concrete recommendations to further action-oriented national, regional and international measures to combat all forms of racism, racial discrimination, xenophobia and related intolerance?

(If your Government has answered any of the above questions in a recent report under the International Convention on the Elimination of All Forms of Racial Discrimination, you may care to indicate which paragraphs constitute an answer, updating them as necessary.)

Question 15: (Only for national institutions) Does your mandate include the Convention on the Elimination of Racial Discrimination, or any national legislation designed to prevent racial discrimination? If so, could you briefly summarize your activities in discharging this responsibility?

Annex II

LIST OF RESPONDENTS TO THE QUESTIONNAIRE

States (28)

Austria
Belarus
Canada
Chile
Croatia
Cuba
Denmark
France
Guatemala
Iceland
Israel
Iraq
Latvia
Lebanon
Lithuania
Madagascar
New Zealand
Peru
Poland
Portugal
Russian Federation
Slovak Republic
South Africa
Spain
Switzerland
United Arab Emirates
United Kingdom of Great Britain and Northern Ireland
United States of America

Specialized agencies (2)

World Health Organization
United Nations Environment Programme

International governmental organizations (2)

International Seabed Authority
The United Nations University

Non-governmental organizations (10)

Afro-Asian People's Solidarity Organization
Danish Centre for Human Rights
Fraternité Notre Dame
Human Rights Watch
International Federation of Women Lawyers
Kowani Kongres Wanita Indonesia
Médécins sans frontières
Seventh Day Adventist Church
Susila Dharma International
World Organization of Former Pupils of Catholic Education

National institutions (5)

Canadian Human Rights Commission
Commission on Human Rights of Mexico
Commission fédérale contre le racisme (Switzerland)
Ombudsmannen Mot Etnisk Diskriminering (Sweden)
Ombudsman's Office of Costa Rica